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THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH

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UNITED STATES OF AMERICA,  
  
Plaintiff,

v.

NICANOR VASQUEZ-MENDOZA,  
  
Defendant.

**MEMORANDUM DECISION AND  
ORDER DENYING MOTION TO  
REDUCE SENTENCE**

Case No. 4:20-cr-00153-DN

District Judge David Nuffer

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Defendant Nicanor Vasquez-Mendoza's Motion to Reduce Prison Sentence ("Motion") seeks early release from prison pursuant to 18 U.S.C. § 3582(c)(2) and Amendment 821.<sup>1</sup> Defendant's Motion requests that his term of imprisonment be reduced from 180 months to a sentence of 100 to 125 months.<sup>2</sup>

The United States Probation Office ("Probation Office") filed a Response<sup>3</sup> that noted the Motion did not specify: (1) the reasons Defendant should receive a sentence reduction; or (2) whether Defendant is applying for a sentence reduction as a zero-point offender or a status-point adjustment under the new amendment.<sup>4</sup> In any case, Defendant is not eligible for a zero-point offender adjustment because he received criminal history points.<sup>5</sup> Additionally, Defendant is not eligible for a status-point adjustment under the new amendment because he did not receive any

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<sup>1</sup> Pro se Motion to Reduce Sentence Under USSC Amendment 821 ("Motion"), [docket no. 33](#), filed December 22, 2023.

<sup>2</sup> Motion, [docket no. 33](#), filed December 22, 2023.

<sup>3</sup> Response to Motion to Reduce Sentence, [docket no. 36](#), filed January 31, 2024.

<sup>4</sup> Response to Motion to Reduce Sentence, [docket no. 36](#), at 1.

<sup>5</sup> Response to Motion to Reduce Sentence, [docket no. 36](#), at 1; Sealed Presentence investigation Report, [docket no. 36-1](#), at 8-9, filed January 31, 2024.

status points for being under a criminal justice sentence at the time of the instant offense.<sup>6</sup> In other words, the status-point adjustment under the new amendment is not applicable to the defendant since he did not receive any status points.<sup>7</sup>

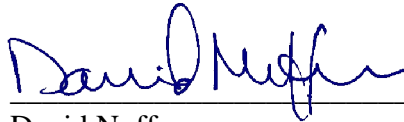
The government agrees that Defendant is not eligible for a sentence reduction.<sup>8</sup> Additionally, the Federal Public Defender advised the Probation Office that: (1) defendant is not eligible for a sentence reduction under Amendment 821; and (2) Defendant is not eligible for appointment of the Federal Public Defender pursuant to Judge Shelby's General Order 23-010.<sup>9</sup> Judge Shelby's General Order 23-010 limits the appointment of the Federal Public Defender to "those cases affected or potentially affected by the retroactive application of Parts A and B, Subpart 1 of Amendment 821[.]"<sup>10</sup> For these reasons, Defendant is not eligible for a zero-point offender adjustment or a status-point adjustment.

### **ORDER**

Defendant's Motion to Reduce his Prison Sentence is DENIED.

Signed February 27, 2024.

BY THE COURT

A handwritten signature in blue ink, appearing to read "David Nuffer", is written over a horizontal line.

David Nuffer  
United States District Judge

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<sup>6</sup> Response to Motion to Reduce Sentence, [docket no. 36](#), at 1.

<sup>7</sup> Response to Motion to Reduce Sentence, [docket no. 36](#), at 1.

<sup>8</sup> Response to Motion to Reduce Sentence, [docket no. 36](#), at 1.

<sup>9</sup> Response to Motion to Reduce Sentence, [docket no. 36](#), at 1-2.

<sup>10</sup> General Order 23-010, at 2.